



Securities Arbitration Clinic  
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March 20, 2014

**Via Electronic Filing**

Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street, NE.  
Washington, DC 20549-1090

**Re: File No. SR-FINRA-2014-008: Notice of Filing of  
Proposed Rule Change Relating to Protecting Personal Confidential Information in Documents  
Filed with FINRA Dispute Resolution**

Dear Secretary Murphy:

The St. John's University School of Law Securities Arbitration Clinic (the "Clinic") would like to thank you for the opportunity to comment on the proposed rule changes concerning the redaction of Social Security numbers, taxpayer identification numbers, and financial account numbers (collectively, "personal confidential information" or "PCI") in paper and electronic filings pursuant to File No. SR-FINRA-2014-008 (the "Rule Proposal"). The Clinic is a curricular offering where students represent public investors of limited means in disputes against their investment brokers pro bono.<sup>1</sup>

FINRA's Rule Proposal seeks to amend FINRA Rule 12300(g)(1) by requiring an individual's personal confidential information to be redacted to include only the last four digits

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<sup>1</sup> For more information, please see <http://www.stjohns.edu/law/securities-arbitration-clinic>.

of any of these numbers in any paper or electronic filing. Further, any pleadings that fail to follow this requirement will be deemed deficient.

The Rule Proposal is an effort by FINRA to protect parties from “identity theft and the accidental loss of personal confidential information.” FINRA acknowledges that the greatest risk of misdirecting personal confidential information occurs when FINRA serves pleadings on parties. The Clinic commends FINRA’s efforts in increasing personal information protections for parties in arbitration.

However, under this Rule Proposal, FINRA has chosen to exempt pleadings filed under simplified arbitration proceedings. FINRA rationalizes this exemption through concerns about pro se parties’ abilities to follow the redaction protocol. Concern for pro se parties is well-founded; however, FINRA’s remedial measures go too far. Many claimants in simplified arbitration are represented by counsel. FINRA’s concerns about the inability to follow amended Rule 12300(g)(1) is inapplicable in these situations. There is no reason why a represented claimant should not receive these protections simply because their claim is small.

Further, other represented parties in simplified arbitration proceedings do not warrant an exemption. Even if the pro se parties do not follow the redaction requirements, they would still gain increased protection from requiring other represented parties to follow the PCI redaction requirements. Oftentimes, respondents do have counsel, and should be required to redact PCI. Reducing the overall number of documents that contain PCI will reduce the risk of accidental disclosure of PCI for represented and pro se parties.

The Rule proposal would also allow an exemption for documents that are only presented at a hearing. FINRA supports this exemption by pointing out that there is little chance for PCI to fall into the wrong hands when the party brings documents containing such information directly to the hearing. However, in a simplified arbitration, typically there is no hearing. Parties must attach all of the documents they want considered, including exhibits, to their pleadings. This means that even more documents are being sent to FINRA to be distributed to the parties and to arbitrators, the very situation that FINRA recognizes as the most likely time that PCI could be improperly conveyed. Therefore, claimants in simplified arbitration are even more at risk, and would benefit the most from the policy which the Rule Proposal seeks to enact.

Moreover, not every pro se claimant will enter into simplified arbitration. Some pro se parties will be involved in proceedings regarding claims in excess of \$50,000. Yet, these parties are not excused under the proposed rule. The difficulty of complying with redacted confidential information is likely to be equally present for these pro se parties. To excuse pro se parties under simplified arbitration, but to ignore pro se parties in normal arbitration proceedings is a mistake. FINRA should seek to have uniformity in PCI protections for pro se parties regardless of the value of their claim.

Therefore, the Clinic believes that the Rule Proposal should be amended to only exempt pro se parties from PCI redaction requirements under both arbitration and simplified arbitration proceedings. Represented parties in simplified arbitration proceedings should not be excused from the PCI redaction requirements. These changes will allow FINRA to increase PCI protections for pro se parties while lowering the burden of adherence to the rules for all pro se parties regardless of the value of their claim. We thank you again for the opportunity to comment upon this Rule Proposal.

Respectfully submitted,

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